

1 Trenton R. Kashima (SBN 291405)
2 **MILBERG COLEMAN BRYSON**
3 **PHILLIPS GROSSMAN PLLC**
4 402 West Broadway, Suite 1760
San Diego, CA 92101
Tel: (619) 810-7047
Email: *tkashima@milberg.com*

5 Laurence D. King (SBN 206423)
6 **KAPLAN FOX & KILSHEIMER LLP**
7 1999 Harrison Street, Suite 1560
Oakland, CA 94612
Tel: (415) 772-4700
Email: *lking@kaplanfox.com*

8
9 *Co-Lead Interim Counsel for Plaintiffs and the*
10 *Proposed Class*

11 [Additional counsel on signature page]

12 **UNITED STATES DISTRICT COURT**
13 **NORTHERN DISTRICT OF CALIFORNIA**
14 **SAN FRANCISCO DIVISION**

15 In re: Nestle Boost Nutritional Drink Litigation

Case No. 3:21-cv-09812-JSC

CLASS ACTION

**PLAINTIFFS' ADMINISTRATIVE
MOTION TO EXTEND CLASS
CERTIFICATION SCHEDULE**

Judge: Honorable Jacqueline Scott Corley

1 Pursuant to Local Civil Rules 6-3 and 7-11, Plaintiffs respectfully request that the Court
2 extend the Class Certification Briefing Schedule to allow Plaintiffs sufficient time to work with their
3 experts to prepare reports necessary to move for class certification given the upcoming holidays. In
4 support of their request, Plaintiffs aver:

5 1. Currently, the class certification schedule is as follows: Motion for Class
6 Certification opening brief is by January 9, 2025; Opposition brief is due by February 20, 2025; Reply
7 brief is due by March 13, 2025; and the hearing on Motion for Class Certification is set for April 3,
8 2025 at 10:00 a.m. ECF No. 55. No trial date is set. *Id.*

9 2. Plaintiffs have met and conferred with Defendant Nestle Healthcare Nutrition,
10 Inc. (“Defendant”) regarding the schedule. Defendant takes no position on Plaintiffs’ extension
11 request and remains prepared to submit briefing in line with the schedule to which the parties already
12 agreed or at any other time thereafter.

13 3. Plaintiffs served document requests and interrogatories in March 2024 and
14 Defendant provided responses and produced documents throughout May, June, July, and August 2024.
15 Plaintiffs initially sent a 30(b)6 notice on October 17, 2024 to Defendants. *Id.* ¶3. Defendants stated they
16 would not be able to produce witnesses until December of 2024. *Id.* Now, Plaintiffs have 30(b)6
17 deposition dates scheduled on December 13, 2024, December 18, 2024, and December 20, 2024 because
18 Defendant produced three witnesses to the topics noticed by Plaintiffs. *Id.* By the time Plaintiffs receive
19 the errata, the class certification deadline will have lapsed. *Id.* The 60-day extension will allow Plaintiffs
20 to work with their experts to prepare reports necessary to move for class certification and will otherwise
21 be prejudiced under a shorter deadline. *Id.* Plaintiffs need this crucial additional time to conduct the
22 depositions, receive the transcripts, and confer with their experts regarding their expert reports. *Id.*

23 4. Plaintiffs will be unfairly prejudiced by the current schedule due to the
24 upcoming holidays and counsels’ and retained experts’ planned vacations. *Id.* ¶3. Moreover, Plaintiffs
25 have been attempting to complete discovery but have been delayed for various reasons. Thus far,
26 Plaintiffs have produced witnesses and taken other third-parties’ discovery in a way that fosters
27 efficient litigation and have done so in a timely manner. *Id.* However, the parties agreed to an early
28 mediation that occurred on November 7, 2024, but was unsuccessful. *Id.* And, in the interest of saving

valuable time and resources, Plaintiffs delayed costly expert reports in hopes that the mediation would lead to a resolution – unfortunately, it did not. *Id.* The 60-day extension will allow Plaintiffs to work with their experts to prepare reports necessary to move for class certification and will otherwise be prejudiced under a shorter deadline. *Id.*

5. Currently, the only other deadline in the case is a Case Management Conference set for December 12, 2024. *Id.* Therefore, the proposed 60-day extension will not affect the case schedule. No trial date has been set. *Id.*

II. Conclusion

For the reasons stated above, Plaintiffs respectfully request that the Court extend the class certification briefing schedule as follows:

Deadline For	Previous Date	Proposed Date
Motion for Class Certification	January 9, 2025	March 10, 2025
Opposition to Motion for Class Certification	February 20, 2025	April 21, 2025
Reply in Support of Class Certification	March 13, 2025	May 12, 2025
Hearing on Motion for Class Certification	April 3, 2025 at 10:00 a.m.	April 5, 2025 at 10:00 a.m.

Respectfully submitted,

DATED: December 3, 2024

By: /s/ Trenton R. Kashima
Trenton R. Kashima

Trenton R. Kashima (SBN 291405)
**MILBERG COLEMAN BRYSON
PHILLIPS GROSSMAN PLLC**
402 W. Broadway, Suite 1760
San Diego, CA 92102
Telephone: (619) 810-7047
Email: tkashima@milberg.com

Alex Straus (SBN 321366)
**MILBERG COLEMAN BRYSON
PHILLIPS GROSSMAN, PLLC**
280 s. Beverly Drive, Ste. PH
Beverly Hills, CA 902126
Telephone: 865-247-0080
Email: astraus@milberg.com

Nick Suciu III (*pro hac vice*)
**MILBERG COLEMAN BRYSON
PHILLIPS GROSSMAN, PLLC**
6905 Telegraph Rd., Suite 115
Bloomfield Hills, MI 48301
Telephone.: (313) 303-3472
Facsimile: (865) 522-0049
Email: nsuciu@milberg.com

J. Hunter Bryson (*pro hac vice*)
**MILBERG COLEMAN BRYSON
PHILLIPS GROSSMAN PLLC**
405 E. 50th Street
New York, NY 1002
Telephone: (919) 539-2708
Facsimile: (919) 600-5035
Email: hbryson@milberg.com

DATED: December 3, 2024

By: /s/ Laurence D. King
Laurence D. King

Laurence D. King (SBN 206423)
Matthew B. George (SBN 239322)
Blair E. Reed (SBN 316791)
Clarissa Olivares (SBN 343455)
KAPLAN FOX & KILSHEIMER LLP
1999 Harrison Street, Suite 1560
Oakland, CA 94612
Telephone: 415-772-4700
Facsimile: 415-772-4707
Email: lking@kaplanfox.com
mgeorge@kaplanfox.com
breed@kaplanfox.com
colivares@kaplanfox.com

Joel B. Strauss (*pro hac vice*)
KAPLAN FOX & KILSHEIMER LLP
800 Third Avenue, 38th Floor
New York, NY 10022
Telephone: 212-687-1980
Facsimile: 212-687-7714
Email: jstrauss@kaplanfox.com

Michael D. Braun
KUZYK LAW, LLP
1999 Avenue of the Stars, Ste. 1100
Los Angeles, CA 90067
Telephone: 213-401-4100
Email: mdb@kuzykclassactions.com

Ross B. Rothenberg (to be admitted *pro hac vice*)

THE ROTHENBERG LAW FIRM LLP

450 7th Avenue, 44th Floor

New York, NY 10123

Telephone: 212-563-0100

Email: ross@injurylawyer.com

Co-Lead Interim Counsel for Plaintiffs and the Proposed Class

ATTESTATION PURSUANT TO CIVIL LOCAL RULE 5-1(i)(3)

I, Trenton R. Kashima, attest that concurrence in the filing of this document has been obtained from the other signatory.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed this 3rd day of December, 2024 at San Deigo, California.

/s/ Trenton R. Kashima
Trenton R. Kashima